

GOVERNMENT OF MYSORE

Food, Civil Supplies and Labour Department

Labour Dispute.—Industrial Dispute between the workmen and the management of Sampigehoney Estate, Niduvale P.O., Chickmagalur District.

Award of the Industrial Tribunal, Bangalore—Published.

Read the following papers :

(1) Letter No. IT. No. 1093—72-73, dated 2nd December 1972 from Sri Narayan Rai Kudoor, Presiding Officer, Industrial Tribunal, Bangalore.

**BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE,
BANGALORE.**

Dated 30th November 1972

Present

Sri Narayan Rai Kudoor, B.A., B.L., Presiding Officer.

L.D. No. 14 of 1972

I Party—

**The workmen of Sampigehoney Estate, Niduvale P.O.,
Chickmagalur District.**

Vs.

II Party—

**The Management of Sampigehoney Estate, Niduvale P.O.,
Chickmagalur District.**

Appearances

For the I Party—

**Sri P. H. Pinto, General Secretary, Estate Workers' Union of South
India, Chickmagalur.**

For the II Party—

None represented.

Reference

(Government Order No. FCL 1190 LLD 71, dated 25th May 1972).

AWARD

An Industrial Dispute existing between the workmen and the management of Sampigehoney Estate of Chickmagalur District which is the subject matter of this adjudication has been referred to this Tribunal by the Government of Mysore as per Order No. FCL 1190 LLD 70, dated 25th May 1972 in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), on the following points of dispute :—

- “(1) Are the management of Sampigehoney Estate, Niduvale Post, Chickmagalur District, justified in denying Way Expenses to their workmen for the years 1967-68, 1968-69 and 1969-70.
- (2) If not to what relief if any, the said workmen are entitled ?”

2. On receipt of the above Reference, it was registered as I.D. No. 14 of 1972 on the file of this Tribunal. The cause of the I Party workmen has been taken up by the Estates Workers Union of South India through its Chickmagalur Branch, whereas the management of Sampigehoney Estate is the II Party to the dispute.

3. Notice of the dispute has been issued to both the parties. In consequence of the notice, both the parties filed their respective Statement of Demands, one supporting the Reference and the other opposing the same.

4. The I Party in their statement of claim has urged the following points :—

The 24 employees listed in the Statement of claim are the permanent employees working in the II Party Estate. As per the industry-wide settlement dated 1st September 1969 (evidently it must be 1st September 1959) between the employers and the employees of the plantation industry in the State of Mysore, the employees of the II Party Estate are entitled to get one way expenses, once a year on their return journey to the Estate from their native place on Annual Leave. The I Party workmen had gone to their respective native places during the years 1967-68, 1968-69 and returned to the Estate for work from their annual leave. They had incurred the necessary expenditure while returning to the Estate which they are entitled to be reimbursed by the II Party. All the workers are the natives of South Kanara District. The management failed to pay the employees of their one way expenses incurred to travel from their native places to the estate as required under the provisions of the said Settlement.

Further, for the year 1969-70, the employees are entitled to get Rs. 6 towards way expenses as per another industry-wide Settlement dated 18th November 1969 irrespective of their performing journey to their respective native places. This benefit was also denied to the employees by the II Party for the year 1969-70. On these grounds, the I Party workmen requested that the Order of Reference has to be answered against the II Party and pass an award in their favour directing the II Party to grant the way expenses as claimed in the Statement of Claim.

5. The II Party has filed their statement of claim supporting the Order of Reference advancing the following grounds in justification of their refusal to pay the way expenses to their workmen for the years 1967-68 to 1969-70 :—

The list of employees shown in the Statement of claim of the I Party as permanent employees of the Estate owned by the II Party is not a correct list. As per the terms of settlement dated 1st September 1959, the workers are entitled to get one way expenses in a year on their return journey to the Estate from their native places after the completion of the Annual Leave. None of the workers had gone to their native places nor claimed any way expenses from the management for the years in question. They have not produced any certificate from Village Panchayat, by way of proof, for having gone to their native places. So the management is not liable to pay the expenses for the year 1967-68, and 1968-69 to their employees. Even during the year 1969-70, none of the employees had gone on annual leave to their native places. However, as per the Agreement dated 18th November 1969, the management is agreeable to pay way expenses at a flat rate of Rs. 6 irrespective of the workmen going to their native places or not. With these averments, the management finally prayed for the rejection of the claim of the I Party-workmen relating to the way expenses for the year 1967-68 and 1968-69.

6. On the pleadings, the following additional Issues were framed in addition to the points of dispute scheduled in the Order of Reference :—

- “(1) Whether the 24 employees mentioned in para 1 of the Statement of Demands filed by the I Party are not the permanent employees of the II Party Estate ?
- (2) Whether all or any of the employees referred to under Issue No. 1 have or has fulfilled the terms of the Settlement dated 1st September 1969 relating to claim way expenses for the years 1967-68 and 1968-69 ?
- (3) Whether all or any of the employees mentioned under Issue No. 1 have or has fulfilled the requirements of the settlement dated 18th November 1969 prescribed for claiming the way expenses ?

(4) To what reliefs the parties are entitled ?

7. After settling the additional Issues, the dispute was posted for evidence. When the matter came up for enquiry finally at Chick-magalur Camp on 22nd November 1972, the II Party remained absent. Only the I Party-workmen was represented by their Representative, Sri P. H. Pinto, who filed Memo of Appearance for the I Party. At his request, the case was adjourned to 23rd November 1972. Even on that day, the II Party remained absent. On behalf of the I Party, eight witnesses were examined, besides producing two documents. In the absence of the II Party, only the learned representative for the I Party workmen was heard.

8. Out of the 8 witnesses examined, witness No. 1 was the Secretary of the Union representing the I Party-workmen and the rest were some of the employees concerned in the dispute. The two documents produced and marked were the true copies of the settlements dated 1st September 1959 and 18th November 1969 entered into between the Planters' Association of the Plantations in Mysore State and the Plantation Workers' Unions.

9. It would be useful to dispose of the Additional Issues formulated for decision before dealing with the main Issue covered under the Order of Reference:—

Issue No. 1.—

10. The I Party has claimed relief for 24 employees listed in their Statement of Demands on the ground that they were the permanent employees under the II Party working in their estate entitled for the way expenses for the years 1967-68, 1968-69 and 1969-70. The II Party in their statement has merely denied the correctness of the list of employees showing them as the permanent employees of the Estate. They have not stated how many of the 24 employees listed in the Statement of Demands by the I Party-workmen are not the permanent employees or the employees under the II Party. If any of them is not either an employee or a permanent employee under the II Party, certainly, they would have mentioned the names of those persons out of the list furnished by the I Party. The II Party has deliberately refrained from doing so for the reasons best known to them. Undoubtedly, it is the II Party who have been maintaining the registers and the roll calls pertaining to their employees. We cannot accept any appointment orders as such, in employing the labourers to work in the estates and as such, we cannot expect any documentary proof on the side of the I Party-workmen to establish that they are the permanent employees of the II Party working in their estate. As many as seven employees came forward to give evidence in support of their cause. Each one of them has referred to his also relatives among the list of employees listed in their statement of demands besides him working in the II Party-Estate. The sum total of their evidence is to the effect that all the employees referred to in

their Statement of demands are the employees of the II Party and have been working in their estate since a long time. As against this, the II Party has not produced any evidence to show that any of them is not a permanent employee under them. In the light of the available material, I am inclined to hold that all the 24 employees referred to in the Statement of Demands filed by the II Party are the permanent employees under the II Party. I answer this Issue accordingly.

Issues 2 and 3.—

11. These two Issues can be conveniently disposed of together as they relate to the claim of the workmen for the way expenses for the years covered under the Order of Reference. Before considering the evidence, it would be useful to refer to the provisions contained in the two settlements, the copies of which, have been marked as Exts. W. 1 and W. 2 relating to payment of way expenses to their employees. Ext. W. 1 is the copy of the Memorandum of Settlement dated 1st September 1959 under which, the I Party workmen have laid their claim for the years 1967-68 and 1968-69. Clause 4 of the terms of Settlement under Ext. W. 1 reads as follows :—

“Way Expenses.—

One way expenses shall be paid to workers once a year for their return to the journey on their return to the estate from Annual leave.

Only workers who have put in 200 days of work including days of involuntary unemployment holidays with wages and sick leave with wages granted during the year are eligible to receive this benefit.

The above way expenses shall be at the rate of III Class Railway fare and/or actual bus fare from the nearest bus point railway station to the estate, to the railway station/ bus terminus nearest to the registered home address of the workers.”

The second Settlement, Ext. W. 2, came to be signed between the representatives of the employers and the workmen in the Plantation Industry in the Mysore State on 18th November 1969 which was effective with effect from 1st July 1969 and continued to be in force for a period of 3 years therefrom. Clause 1 of the terms of Settlement deals with way expenses, reads as hereunder :—

“1. Way Expenses.—

(a) All workers in plantations who have put in 160 days of work during the year shall be paid way expenses at a flat rate of Rs. 6 once in every year irrespective of their performing journey to their respective native place.

(b) Such of the above workers who actually go to their registered home addresses during their annual leave should be paid the difference between the actual one way expense

at the rate of III-Class Train fare/actual bus-fare from the nearest railway station/bus terminus to the railway station/bus terminus nearest to the registered home address of the workers and the flat rate mentioned in (a) above. This difference in the amount will be paid immediately on their return to the estate after completing their annual leave and subject to the production of certificate of post or other proof to the satisfaction of the management.

- (c) Wherever the existing practices are more favourable they shall continue at the option of the worker, in which case such workers shall not be entitled to the benefits under this settlement regarding way expenses."

Admittedly, the claim of the I Party-workmen for the years 1967-68 and 1968-69 is covered under the Settlement, Ext. W. 1, whereas the claim for the year 1969-70 is covered under the terms of Settlement, Ext. W. 2. So far as their claim for the year 1969-70 is concerned, the management has conceded and agreed to pay way expenses at a flat rate of Rs. 6 in their statement. That is also the amount claimed by the I Party workmen for the year 1969-70 in their statement of demand. Thus the remaining dispute between the I Party workmen and the II Party centres round the claim of the former regarding the way expenses for the years 1967-68 and 1968-69. Before claiming one way expenses for his return journey as per clause (4) of the Terms of Settlement (Ext. W. 1), each worker has to fulfil two conditions. They are :—

- (1) Each worker has to put in 200 days of work including days of involuntary unemployment, holidays with wages and sick leave with wages granted during the year, and
- (2) that he has to make a journey to his native place on annual leave and return to the estate for resuming work.

It is not the case of the II Party management, as could be seen from the written statement that any of the employee is disqualified for claiming the way expenses on account of shortage in the number of days of work put in by him in those years. On the other hand, their contention appears to be that none of them had gone to their native place during those years and as such, they are disentitled from claiming one way expenses towards their return journey on their return to the estate from the annual leave, as provided under the Settlement, Ext. W. 1. On this question, we have only the evidence of witnesses examined by the I Party-workmen. It is seen from the evidence of W.W. 2 to W.W. 8 that all the workmen are the natives of South Kanara District. Some of them are the natives of Bantwal and some others are the natives of Pane Mangalore. It is further seen from their evidence that all of them have gone to their respective native places during the year 1967-68 and 1968-69 on annual leave, and returned to the Estate at the end of the Annual leave for resuming work. It is also seen

from the evidence of the employees who are the natives of Bantwal, that each one of them has spent Rs. 3.50 P. towards one way bus fare, whereas the employees who are the natives of Pane Mangalore who are four in number as could be seen from the evidence of W.W. 7, each has spent Rs. 3.75 P. as one way bus fare. Their evidence further discloses that the II Party Management have not compensated them regarding one way bus fare, which they are entitled to under the provisions of Ext. W. 1. There is no contra evidence. It is true that none of the witnesses examined has produced any documentary proof regarding their journey to their respective native places. All that they could have produced by way of documentary proof regarding their journey was by either the bus tickets or some certificates from a responsible person of their native place. It must be noted that the claim of the employee relates to the years 1967-68 and 1968-69, whereas the dispute was referred by the Government only in the month of May 1972. We cannot expect from the employees who are all illiterate to preserve any documentary proof regarding their trip to their native places several years ago. Their oral evidence on this question cannot be brushed aside merely because they have not produced any documentary proof in support of their oral evidence. It is reasonable to accept that they would have gone to their native places on annual leave which they get once a year, having kept themselves away from the native place for a long time. We could accept that in such a situation one would certainly avail of the opportunity to visit his native place, especially, when he is assured of some financial assistance from the management to meet, part of his expenses. The II Party has not chosen to place any contra evidence to rebutt the claim of the employees. That being the position, I am inclined to accept the evidence adduced on behalf of the workmen in support of their plea that they had gone to their native places during the year 1967-68 and 1968-69 on annual leave and returned to their estate for resuming work on the expiry of their annual leave. For the reasons mentioned above, I hold under these Issues that the employees have fulfilled the requirements of the Settlements Ext. 1 and W. 2 relating to their claim for one way expenses for the years 1967-68, 1968-69 and 1969-70.

Issue No. 4.—

13. This Issue is a general Issue relating to the reliefs which the parties are entitled to. For the reasons stated *supra*, I hold, out of the 24 employees mentioned in the statement of claim filed by the I Party, Serial Nos. 1, 2, 6 to 8 and 10 to 24 are entitled to Rs. 3.50P. each towards one way expense for each of the years 1967-68, 1968-69 and Serial Nos. 3 to 5 and 9 each entitled to Rs. 3.75 P. for each of the years 1967-68 and 1968-69. Further all the 24 of them are entitled to Rs. 6 each for the years 1969-70 towards way expenses.

14. In view of my finding under the additional Issues, it follows that the Reference has to be answered against the II Party holding that the II Party is not justified in denying one way expense to their workmen for the years 1967-68 to 1969-70.

15. In the result, I pass an Award directing the II Party—Management to pay the the employees the amounts mentioned under Issue No. 4. Further the I Party workmen are also entitled to the cost of the proceedings from the II Party Management. The cost is fixed at Rs. 75.

NARAYAN RAI KUDOOR,
Presiding Officer, Industrial Tribunal,
Bangalore

ORDER

Bangalore, dated 27th December 1972

S. O. 230.—Whereas by State Government Order No. FCL 1190 LLD 71, dated 25th May 1972, the Industrial Dispute between the workmen and the management of Sampigehoney Estate, Niduvale P.O., Chickmagalur District, was referred to the Industrial Tribunal, Bangalore for adjudication.

And, whereas the Industrial Tribunal has submitted to the State Government its award in respect of the said Industrial Dispute.

Now, therefore, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the Mysore Gazette.

[No. FCL 264 LLA 72.]

By Order and in the name of the Governor of Mysore.

ANIRUDHA DESAI,
Under Secretary to Government,
Food, Civil Supplies and Labour Department.